REMARKS/ARGUMENTS

The Examiner is thanked for the courteous telephone interview granted Applicants' representative on July 6, 2007. During the interview, a proposed amended claim 1 was discussed. The Examiner indicated that the proposed amended claim appeared to overcome the rejection of the claim as being anticipated by DeWitt (US Patent application publication No. 2005/0071817 A1), but that the amended claim would be further considered upon receiving this Response. The Examiner also suggested that the claim be further amended to describe the "data access indicators" of the claim in more detail and to emphasize advantages of the claimed invention so as to more clearly distinguish over the cited art. The present Response has been prepared in accordance with the Examiner's suggestions and is believed to place the case in condition for allowance.

Claims 1, 3, 8-11, 13, 18-21 and 23 are pending in the present application. Claims 1, 3, 8, 11, 13, 18, 21 and 23 were amended, and claims 2, 4-7, 12, 14-17, 22 and 24-26 were canceled. No claims were added. Reconsideration is respectfully requested in view of the above amendments and the following comments.

I. Specification Objections

The Examiner has objected to the specification as containing various informalities and has required appropriate correction.

By the present Amendment, the specification has been amended as appropriate. In this regard, Applicants have not identified the terms "Sun Microsystems, Inc." on page 14, lines 12 and 13, and "Intel Corporation" on page 22, last line as trademarks because the terms are used as company names in those instances rather than as trademarks. Also, Applicants have noted the Examiner's suggestion that the term "computer readable medium" on page 59, line 10 be changed to "computer readable storage medium." Applicants prefer not to amend the specification in this regard. Instead, as noted below, computer program product claim 21 has been amended to avoid issues regarding 35 U.S.C. § 101.

The Examiner is thanked for bringing the various informalities in the specification to Applicants' attention.

II. 35 U.S.C. § 101

The Examiner has rejected claims 21-26 under 35 U.S.C. § 101 as being directed towards non-statutory subject matter. This rejection is respectfully traversed.

The Examiner states:

> **In claim 21,** a "computer program product in a computer readable medium" to include recordable-type media,.., and transmission-type media, cited on P. 59, Lines 10-16, in the specifications; the claim is directed to a computer program

product encoding a computer program. However, Applicant defines "computer program product in a computer readable medium" to include "a computer data signal embodied in a carrier wave". Signals and carrier waves do not fall within any class of statutory subject matter, and thus the claim is not limited to statutory subject matter. Please see Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (1300 OG 142), Annex IV, Section (C) for details.

As to claims 22-26, they are merely further recited as the computer program product per se, thus, do not cure the deficiency of base claim 21, and also rejected under 35 U.S.C. 101 as set forth above.

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In order to expedite prosecution, claim 21 has been amended to recite a "recordable-type" computer readable medium. Such terminology is supported on page 59, lines 10-12, and excludes transmission-type media. Claim 21, accordingly, and claim 23 dependent thereon now fully satisfy the requirements of 35 U.S.C. § 101 in all respects.

Therefore, the rejection of the claims under 35 U.S.C. § 101 has been overcome.

III. Double Patenting

The Examiner has provisionally rejected claims 1, 2, 4-12, 14-22, 24 and 25 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8, 10-17 and 19-24 of copending Application No. 10/808,716.

In order to expedite prosecution, an appropriate Terminal Disclaimer is enclosed herewith.

Therefore, the provisional rejection of the claims on the ground of nonstatutory obviousness-type double patenting has been overcome.

IV. 35 U.S.C. § 102, Anticipation

The Examiner has rejected claims 1-3, 6-13, 16-23, and 26 under 35 U.S.C. § 102(e) as being anticipated by DeWitt JR. et al. (Pub. No. US 2005/0071817 Al), (hereinafter "DeWitt"). This rejection is respectfully traversed.

In rejecting the claims, the Examiner states:

> **As to claim 1,** DeWitt discloses a method in a data processing system for presenting coverage data relating to data access occurring during execution of code, the method comprising: obtaining the coverage data containing data access indicators associated with memory locations (Fig. 4, element 404 - performance indicator shadow cache; [0081] - processor uses the performance indicators to determine how the related data access .. are to be counted); identifying the data access indicators that have been set by a processor in the data processing system

> in response to access of the memory locations during execution of the code by the processor to form set data access indicators, wherein each set instruction access indicator is associated with a portion of the memory locations allocated for the code (Fig. 9, steps 900 - identify a request to access a memory location, 902 - performance indicator associated with the memory location; Fig. 15, element 1512 -.memory location; [0123], Lines 8-11- meta data take the form of performance indicators that tell processor . . . data accesses to memory location; [0193]); and generating a presentation for coverage data, wherein the set data access indicators are identified in the presentation (Fig. 9; [0096], Lines 1-5 - a process for generating an interrupt in response to an access of a memory location associated with a performance indicator ..; [0097]).

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As indicated above, claim 1 has been extensively amended to emphasize features of the invention and to more clearly distinguish over DeWitt. DeWitt does not disclose or suggest a number of features currently recited in claim 1, including, for example, "generating means for generating a presentation for coverage data in response to an event for identifying memory locations that have been accessed and for identifying memory locations that have not been accessed during execution of the code, wherein the set data access indicators and the unset data access indicators are identified in the presentation by one of using a first color to identify the set data access indicators and using a second color to identify the unset data access indicators, and using a graphical indicator to identify the set data access indicators and the unset data access indicators." Claim 1, accordingly, is not anticipated by DeWitt, and withdrawal of the rejection thereunder is respectfully requested.

Independent claims 11 and 21 have been amended in a similar manner as claim 1, and are also not anticipated by DeWitt. Claims 3, 8-10, 13, 18-20 and 23 depend from and further restrict one of independent claims 1, 11 and 21 and are also not anticipated by DeWitt, at least by virtue of their dependency.

Therefore, the rejection of claims 1-3, 6-13, 16-23, and 26 under 35 U.S.C. § 102(e) has been overcome.

V. 35 U.S.C. § 103, Obviousness

The Examiner has rejected claims 4-5, 14-15, and 24-25 under 35 U.S.C. § 103(a) as being unpatentable over DeWitt in view of Lewis et al. (Pub. No. US 2002/0157086 Al) (hereinafter Lewis). This rejection is respectfully traversed.

Claims 4-5, 14-15 and 24-25 have been canceled. Therefore, this rejection of those claims is now moot. In addition, this will confirm that DeWitt JR. et al. (Pub. No. US 2005/0071817 Al) and the claimed invention were, at the time the invention was made, both owned by International Business

Machines Corporation of Armonk, New York. Therefore, pursuant to 35 U.S.C. 103 (c), DeWitt is not a proper reference against claims of the present application under 35 U.S.C. 103(a), and rejection of the claims over DeWitt in view of Lewis is improper.

Therefore, the rejection of claims 4-5, 14-15, and 24-25 under 35 U.S.C. § 103(a) under 35 U.S.C. § 103 has been overcome.

VI. Conclusion

This application is now believed to be in condition for allowance, and it is respectfully requested that the Examiner so find and issue a Notice of Allowance in due course.

Applicants have amended claims 1, 3, 8, 11, 13, 18, 21 and 23, and have canceled claims 2, 4-7, 12, 14-17, 22 and 24-26 from further consideration in this application. Applicants are not conceding in this application that those claims are not patentable over the art cited by the Examiner, as the present claim amendments and cancellations are only for facilitating expeditious prosecution of subject matter believed to be allowable. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications.

The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

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Respectfully submitted,

/Gerald H. Glanzman/
Gerald H. Glanzman
Reg. No. 25,035
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorney for Applicants